IN THE HIGH COURT OF JUDICATURE OF
ANDHRA PRADESH
AT HYDERABAD

THE HON'BLE MRS. JUSTICE T.MEENA KUMARI
AND
THE HON'BLE MR. JUSTICE D.APPA RAO

WRIT PETITION NO. 2952 OF 2007

Dated : September 11, 2007

Between:

B.Sudhakar and others

Petitioners

AND

South Central Railway,
Rep. By its General Manager,
Secunderabad and others

Respondents

THE HON'BLE MRS. JUSTICE T.MEENA KUMARI
AND
THE HON'BLE MR. JUSTICE D.APPA RAO

WRIT PETITION NO. 2952 OF 2007

ORAL ORDER: **(per THE HON'BLE MRS. JUSTICE T.MEENA KUMARI)**

Aggrieved by non-granting of stay of the notification

No. B/P.608/III/RG/GOR/ Sel/Vol V dated 16.10.2006 in O.A. No. 787 of 2006, by the Central Administrative Tribunal, Hyderabad Bench, Hyderabad, the petitioners herein seek a writ of certiorari to call for the records and to quash the same declaring it as arbitrary, discriminatory and in violation of fundamental rights guaranteed under Article 14 of the Constitution of India and consequently direct the respondents to forthwith stay the operation of the said notification till finalising final seniority list.

The petitioners were appointed as DSL/Elec. Asst. Vide RRB Employment notification No. 1 of 1997 and their training commenced on 18.10.2000. It is also submitted that the merit of each petitioner was given and after successful training, they were posted as Elec. Asst. at different places. While so, the respondents published seniority list dated 31.5.2004 and the petitioners were shown below their juniors in the order of merit, fixed by the Railway Recruitment Board, in violation of the Rules. Under notification 1 of 1997, totally 160 members have joined and they underwent training batch-wise. It is submitted that in Guntakal Division and other Divisions, different seniority lists are being maintained, except in Secunderabad Division, where common examination is conducted before relieving from the training institutions and one who gets merit, is treated as senior. It is the case of the petitioners that the seniority has to be fixed in accordance with para 303(a) of the Indian Railway

Establishment Manual, which the respondents have violated.

Aggrieved thereby, earlier the petitioners filed OA No. 2 of 2006, which was disposed of by the Tribunal on 03.01.2006 with a direction to consider the representations submitted by the petitioners and finalise the seniority list in accordance with Rules within a period of three months. Since the representations were not considered, the petitioners filed contempt petition, which was closed granting liberty to question the rejection order. It was also observed therein that in view of pendency of OA No. 239 of 2005, the respondents cannot revise the seniority list and the seniority as was prevalent prior to the date of filing of OA 239 of 2005 i.e. as on 31.10.2003 published on 31.5.2004 shall be prevalent.

It was the contention of the petitioners before the Tribunal that even during pendency of the OA No. 239 of 2005, without finalising the seniority list of the candidates under the Asst. Drivers cadre, the respondents issued notification for the selection to the post of Goods Drivers in BZA Division and fixed the schedule for written examination and are proceeding with the notification No. B/P.608/III/RG/GOR/ Sel/Vol V dated 16.10.2006.

Assailing the same, the petitioner filed the above O.A. and the Tribunal refused to pass any interim order

staying the Notification No. B/P.608/III/RG/GOR/ Sel/Vol V dated 16.10.2006.

Aggrieved thereby, the petitioners filed the present writ petition contending that proceeding with the process of Notification No. B/P.608/III/RG/GOR/ Sel/Vol V dated 16.10.2006 without finalising the seniority list is illegal, arbitrary, discriminatory and also in violation of the fundamental rights guaranteed under Article 14 of the Constitution of India. It is also contended that the respondents ought to have disposed of their representations in accordance with Rules before proceeding with the notification.

This court, while issuing *Rule Nisi* directed that the process of promotion in question may go on, but the actual promotions shall not be given effect to until further orders.

It is submitted by the learned Standing Counsel for the Railways that the O.A. is still pending before the Central Administrative Tribunal and counter has to be filed in the above O.A. Therefore, the respondents are directed to file counter within two weeks from today and the Tribunal is directed to dispose of the O.A. within a period of four weeks therefrom. This court, at this juncture, cannot advert to the contentious issues.

Therefore, without adverting to the merits or

otherwise of the contentious issues, we feel it appropriate to modify the interim order dated 15.02.2007 to the extent that any promotions made, shall be subject to the result of the O.A. pending before the Central Administrative Tribunal.

With this modification in the interim order dated 15.2.2007, the writ petition is disposed of. No order as to costs.

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T.MEENA KUMARI, J.

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D.APPA RAO, J.

September 11, 2007
MAS